IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1543 (SS) OF 2003

Mahendra Pal, S/o Sri Buta Ram,
Lecturer in Asha Ram Vedic Inter College,
Vikas Nagar, Dehradun. ....Petitioner.

Versus

1. State of Uttaranchal through its Education Secretary, Dehradun.
2. District Education Officer, Dehradun.
3. Principal Asha Ram Vedic Inter College, Vikas Nagar, Dehradun named as Augustin George.
4. Manager, Asha Ram Vedic Inter College, Vikas Nagar, Dehradun.
5. Anil Singh, Lecturer Mathematics (posted since 28-12-01) in Asha Ram Vedic Inter College Vikas Nagar, Dehradun. .....Respondents.

Mr. S.S. Yadav, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated : 30.03.2006

Hon'ble Rajesh Tandon, J.

Heard both the parties at length.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents no. 3 and 4 to permit the petitioner to join in Asha Ram Vedic Inter College Vikas Nagar Dehradun on the post of Lecturer Maths in the Parent Teacher Association Scheme. Further prayer has also been made for a writ of mandamus directing the respondents no. 3 and 4 to treat the petitioner as Lecturer since 26.12.99.

Briefly stated, after passing M.Sc. (Maths) in First Class the petitioner was appointed on thue post of Assistant

Teacher/Lecturer against the vacant post of Science/Maths under the scheme of Parent Teachers Association on 01.07.1996, but in this regard no appointment letter was issued to the petitioner. According to the petitioner, since 01.07.1996 till date he is continuously working on the post of Assistant Teacher/Lecturer except some artificial break in the service of the petitioner.

From 26.12.1999, the petitioner started to teach as Lecturer against substantive post and continued up to 27.12.2001.

According to the petitioner from 26.12.1999, he is working against the vacant post of Lecturer under the scheme of parents and teachers association which has been approved by the State government and under the aforesaid scheme some fixed amount is being paid to the petitioner and other counter part who have been appointed under the said scheme. The District Inspector of Schools Dehradun (now District Education Officer, Dehradun) wrote a letter to all the Managers and Principals of the Institution and directed them to send details of such teachers, who have been appointed under the parents and teachers association scheme. In pursuance of the order dated 29.10.2001 passed by the D.I.O.S. (Now District Education Officer), Dehradun, the Principal of the said institution sent the detailed chart of all the Lecturers, Assistant Teachers L.T. Grade, Primary Teachers, who have been appointed under the parent and Teachers Association Scheme, and detailed information was sent by the Principal of the Institution to the D.I.O.S. (Now District Education Officer), Dehradun, which was counter signed by the Manager of the said Institution on 07.11.2001. In this chart, the name of the petitioner was shown at Serial No. 4 and petitioner has submitted that as per chart, he is still

working on the post of Lecturer against the vacant post of Maths.

Petitioner has submitted that the Parent Teachers Association Scheme is approved by the State Government and due to non-availability of the selected candidates, the petitioner and other teachers have been appointed under the scheme.

According to the petitioner, his service was terminated on 15.01,2000. However it has come to his knowledge, he came to Institution, when the principal of the Institution did not permit the petitioner to make signatures on the attendance register. According to the petitioner, he was working against substantive post since 26.12.1999 till 27.12.2001 but the Manager and Principal have transferred the respondent no. 5 giving him the joining on the vacant post.

Learned counsel for the petitioner has submitted that the act done by the respondents no. 3 and 4 is against the natural justice because they have not given any opportunity of hearing to the petitioner and arbitrarily taken the illegal decision by giving joining to the respondent and have hit the livelihood of the petitioner.

Learned counsel for the petitioner has further submitted that the regularization proceedings are pending before respondent no. 1.

Being aggrieved, the petitioner moved a representation on 21.01.2002 to the Hon'ble Governor mentioning the entire facts and circumstances of the case and also supplied copy to all concerned respondents.

In reply to the representation moved by the petitioner, the H.E. Governor of State of Uttaranchal directed the Secretary Education, Uttaranchal Shashan to consider the case

of the petitioner for reinstating him in service and to do needful in the matter.

The petitioner has submitted that he was working in the Institution since 01.07.1996, but the respondent no. 3 arbitrarily permitted the respondent no. 5 to join, who was earlier working in Sri Guru Ram Rai Inter College, Dewla, Pauri Garhwal on the post of Mathematics Lecturer and at present the post of Mathematics Lecturer is still vacant in Sri Guru Ram Rai Inter College, Dewla Pauri Garhwal.

In view of the above, liberty is given to the petitioner to file a fresh representation for his joining and other grievances within a period of two weeks from the date of production of the certified copy of the order.

If such a representation is filed the same shall be decided within a period of two months thereafter. The authority concerned shall consider with regard to the joining of the petitioner in Asha Ram Vedic Inter College Vikas Nagar Dehradun or any other institution where the vacancy is available taking into consideration the approval given by the District Education Officer on 05.12.2003.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

30.03.2006
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